

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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	:	Chapter 11
In re:	:	
	:	Case No. 01-0706 (MFW)
ETOYS, INC., <u>et al.</u> ,	:	
	:	Jointly Administered
Debtors.	:	
	:	Re: Docket Item 2329
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**STATEMENT OF ISSUES TO BE PRESENTED ON
CONDITIONAL CROSS APPEAL AND DESIGNATION OF ADDITIONAL
ITEMS TO BE INCLUDED IN RECORD ON CROSS APPEAL BY
CROSS APPELLANT MORRIS, NICHOLS, ARSHT & TUNNELL**

Cross Appellant Morris, Nichols, Arsht & Tunnell ("Morris Nichols") hereby submits, pursuant to Rule 8006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), its statement of issues to be presented on its conditional cross appeal and its designation of additional items to be included in the record on appeal with respect to the Opinion and Order, each dated and entered October 4, 2005 (Bankr. Docket Entries 2319 & 2320) (together, the "Opinion and Order"), of the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

STATEMENT OF ISSUES ON APPEAL

As and for its statement of the issues to be considered on its conditional cross appeal, Morris Nichols respectfully states as follows:

1. Whether the Bankruptcy Court erred when it concluded that the exculpatory provisions of the Revised First Amended Consolidated Liquidating Plan Of Reorganization of EBC I, Inc. f/k/a eToys, Inc. And Its Affiliated Debtors And Debtors-In-Possession (Bankr. Docket Item 1142) (the "Plan") and the Findings of Fact, Conclusions of Law and Order Confirming First Amended Consolidated Liquidating Plan of Reorganization of EBC I, Inc. f/k/a EToys, Inc., and Its Affiliated Debtors and Debtors-in-Possession, dated November 1, 2002 (Bankr. Docket Item 1385) (the "Confirmation Order"), did not preclude the relief requested against Morris Nichols in the motions and related pleadings (collectively, the "Motions") filed by Robert K. Alber and Collateral Logistics, Inc. (together, the "Movants") which are the subject of the Opinion and Order.

2. Whether the Bankruptcy Court erred when it concluded that the relief requested against Morris Nichols in the Motions was not time barred under Bankruptcy Rule 9024 and Rule 60(b) of the Federal Rules of Civil Procedure.

3. Whether the Bankruptcy Court erred in denying Morris Nichols the benefit of the exculpatory provisions of the Plan and Confirmation Order based solely on the Movants' allegations that Morris Nichols had engaged in intentional, willful or grossly negligent misconduct when the record before the Bankruptcy Court was devoid of competent evidence that Morris Nichols' conduct was intentional, willful or grossly negligent.

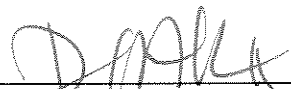
4. Whether the Bankruptcy Court erred when it concluded that "extraordinary circumstances" justified relief under Bankruptcy Rule 9024 and Federal Rules of Civil Procedure 60(b)(6) from the Bankruptcy Court's orders pertaining to Morris Nichols that were entered more than one year prior to the filing of the Motions.

5. Whether the Bankruptcy Court erred in accepting the Movants' allegations that Morris Nichols had committed a "fraud on the court" when the record before the Bankruptcy Court was devoid of competent evidence that Morris Nichols had willfully or intentionally failed to disclose its connections with certain parties in interest.

**DESIGNATION OF ADDITIONAL ITEMS TO BE
INCLUDED IN RECORD ON CROSS APPEAL**

The items designated by Morris Nichols for the record on its conditional cross appeal are included in the items designated by Appellees Traub, Bonacquist & Fox LLP and Barry Gold, plus additional items designated by Morris Nichols as appellee in the related appeals taken by the Movants, which designation is being filed contemporaneously herewith.

MORRIS, NICHOLS, ARSHT & TUNNELL

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Dated: Wilmington, Delaware
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